

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION**

ROYAL WHITE CEMENT INC.,	:	
	:	
Plaintiff,	:	
	:	
v.	:	CIVIL ACTION NO. 1:22-cv-354-TFM-N
	:	
M/V WECO HOLLI, <i>in rem</i> ,	:	
	:	
Defendant.	:	

ORDER

Pending before the court is the *Motion to Dismiss Without Prejudice* (Doc. 4, filed January 30, 2023) in which Plaintiff Royal White Cement Inc. (“RWC”) requests the Court dismiss without prejudice its complaint for maritime arrest against Defendant M/V WECO HOLLI (IMO No. 9929699). RWC does not state under which Federal Rules of Civil procedure it makes its request. *Id.* The Federal Rules of Civil Procedure permit a plaintiff to voluntarily dismiss an action without an order of the court “by filing a notice of dismissal before the opposing party serves either an answer or a motion for summary judgment” or “a stipulation signed by all parties who have appeared.” FED. R. CIV. P. 41(a)(1)(A). A request to dismiss an action requires a court order and dismissal by terms the court considers “proper” if Fed. R. Civ. P. 41(a)(1) does not apply. FED. R. CIV. P. 41(a)(2).

Here, no answer or motion for summary judgment has been filed. Therefore, it is possible to consider the motion as a notice of dismissal pursuant to Fed. R. Civ. P. 41(a)(1)(A)(i) which would be self-effectuating. However, as it is styled as a motion, even if considered under Fed. R. Civ. P. 41(a)(2), the Court finds it proper to dismiss this action under the terms presented.

Consequently, by operation of Fed. R. Civ. P. 41(a)(2), this action is dismissed in

accordance with Plaintiff's motion, and this case is dismissed without prejudice with each party to bear their own attorneys' fees and costs.

The Clerk of the Court is **DIRECTED** to close this case.

DONE and **ORDERED** this 31st day of January 2023.

/s/ Terry F. Moorer
TERRY F. MOORER
UNITED STATES DISTRICT JUDGE